

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
) No. 19 CR 567
-vs-)
) Hon. Martha M. Pacold
ROBERT SYLVESTER KELLY,)
also known as "R.Kelly,")
Defendant.)

**REPLY TO RESPONSE TO THIRD SUPPLEMENT
TO EMERGENCY MOTION FOR TEMPORARY FURLough**

COMES NOW Defendant, Robert Sylvester Kelly, by and through counsel, Beau B. Brindley, and hereby provides a reply to the government's response to his third supplement to his emergency motion for temporary furlough. In support of his motion, Mr. Kelly provides as follows:

Government counsel's response ignores the glaring and shocking truth that underlies this entire litigation. There is evidence that the Federal Bureau of Prisons is taking active steps to kill Robert Kelly. A declaration from the Commissioner of the Aryan Brotherhood says that they did just that. A warning from a Butner prison official said he was concerned that they were doing just that. Now, prison officials have overdosed Mr. Kelly on medications and nearly killed him two days after he made the Stine allegations public. Then, they took him out of a hospital at gunpoint and denied him surgery on blood clots *in his lungs* that the hospital said needed immediate intervention. Does government counsel have a legitimate explanation for any of these things? Of course not. He seems to think that he can refer to what was filed here as a "criticism of medical care" and no one will notice. But that is not the case. This is not a criticism of medical care. These are outright acts by prison officials to put in jeopardy the life of a man who has endeavored to expose crimes committed by these officials themselves. That is what happened.

Does government counsel think that it was simply a coincidence that Mr. Kelly was administered an overdose of his medication within two days of filing a motion setting forth a Bureau of Prisons effort to kill him to cover up the crimes of Bureau of prisons officers? Does government counsel think it is yet another coincidence that Bureau of Prisons officials interfered with Duke University Hospital's scheduling of a surgery to clear blood clots from the lungs of Mr. Kelly by removing him at gunpoint and taking him back to solitary confinement rather than allowing him to get the surgery he needs to protect his life?

Faced with what happened here, it is telling that government counsel chooses to claim this is just a run of the mill medical treatment issue rather than even begin to deny the truth of what Mr. Kelly has asserted. These people did overdose him. They did leave him with blood clots in his lungs and remove him from a hospital that sought to do surgery to remove them. And they did it within days of his exposure of a plan to kill him set forth by Bureau of Prisons officials. There is not a denial of a single one of those facts in the government's so-called response. Nor is there a shred of concern for how this could ever be allowed to happen. The government doesn't care if R. Kelly is killed in the Bureau of Prisons. They don't care if he dies in solitary confinement. That is obvious. The smug and sanctimonious tenor of their briefing makes that plain. But there is nothing sanctimonious about what is happening to Mr. Kelly. There is nothing defensible about what is happening to Mr. Kelly.

Government counsel even has the temerity to suggest that the Bureau of Prisons demonstrated their *concern* for Mr. Kelly's safety by placing in solitary confinement against his will. One wonders if government counsel would also contend that the Bureau of Prisons showed their deep concern for Mr. Kelly's safety when they denied him necessary surgery to remove blood clots from his lungs and took him from the hospital that wanted to conduct that surgery at gunpoint.

Or perhaps they were showing their great concern for his well-being when they overdosed him on medication and nearly killed him. In his original response brief, government counsel made a comment that began with the phrase: “imagine a world in which . . .” That is indeed a useful rhetorical technique to illustrate the circumstances we face. Imagine a world in which prosecutorial corruption and criminal conduct could be forever covered up by jailers who make sure that the inmate never survives long enough to expose the truth. That’s the world in which Mr. Kelly finds himself.

Government counsel’s response to all of this shows either a complete lack of perspective on what has transpired or a troublingly purposeful disingenuousness. Of course, it must be noted that this is all coming from a member of the prosecution team whose conduct gave rise to the investigation that uncovered the disclosures of Kishan Modugumudi. This was the R. Kelly prosecution team who committed constitutional violations and used prison officials and cooperating informants to steal his private and privileged correspondence and weaponize it to turn witnesses against him. And it was this prosecution team that saw fit to bring obstruction of justice and child pornography possession charges against Mr. Kelly’s business manager, Derrel McDavid, only to be fully rebuked by a jury who saw them utilize informants who were repeatedly caught lying to the jury while being questioned by government counsel and his cohorts. That led to the full acquittal of Derrel McDavid and June Brown. Government counsel was part of that entire sordid endeavor. So perhaps it is unsurprising that they see no problem with Mr. Kelly not surviving to see his motion to vacate based on newly discovered evidence filed and litigated to conclusion. Perhaps there is an issue of recusal that needs to be addressed along with the rest of this.

Government counsel seems to be concerned about jurisdiction. The defense is working on a jurisdictional memorandum to address those concerns. It will be filed on time. But steps taken by prison officials to put Mr. Kelly's life in jeopardy cannot be ignored in the meantime. Government counsel seems concerned about the defense not filing a lawsuit in North Carolina. The defense is currently securing local counsel there in case it is needed. Government counsel seems concerned that Mr. Kelly has not yet filed his motions in New York. The defense is in the midst of the pro hac vice process now.

Most importantly, to make sure that government counsel need not be so concerned with keeping these matters from the Court due to jurisdictional arguments, the defense will file its motion to vacate conviction based on newly discovered evidence this week. Unfortunately for government counsel, there will be no jurisdictional refuge from that motion and the truth it will uncover. From that, try as they might, there will be no technical argument behind which government counsel can hide.

WHEREFORE, Mr. Kelly respectfully replies to the government's response to his motion for a temporary furlough to home detention.

Respectfully submitted,

By: /s/ *Beau B. Brindley*
Attorney for the Defendant

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